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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,863	01/03/2001	Bruce D. Melick	P04337US1	1777
22885	7590	09/22/2004	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C.			TREMBLAY, MARK STEPHEN	
801 GRAND AVENUE			ART UNIT	
SUITE 3200			PAPER NUMBER	
DES MOINES, IA 50309-2721			2876	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,863

Applicant(s)

MELICK ET AL.

Examiner

Mark Tremblay

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21,22 and 24-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-22 and 24-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-22 and 24-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #5,805,152 to Furusawa ("Furusawa" hereinafter). Furusawa teaches a method of using video displayed bar code data in a bar code data interchange, the method comprising:

- creating bar code data 43 (inherent, since bar codes are not natural) for bar code interchange;

- providing the bar code data 43 on a computing device 11;

- displaying the bar code data 43 on a video display 12 associated with the computing device (see figures 6 and 10-11);

- scanning 13a the bar code data from the video display;

- decoding the scanned bar code data into information (the decoding function is normally built into the scanner; "information" or "data" is sent from the scanner to the "data requesting means")

using the information (see e.g. column 1, line 12, through column 2, line 16) to thereby complete the data interchange, the step of using performed by the computing device 11. Furusawa also teaches a database 15, external to the computing device 11. Furusawa does not clearly teach that the bar code data 43 originates outside the computing device, so as to require the step of "transmitting" the bar code data to the computing device 11. However, Furusawa does not teach that the computing device 11 has the capability to create video data (but only to reproduce it). Inherently, the video data must come from somewhere, though Furusawa is silent on it's origin. It would have been obvious at the time the invention was made by a person having ordinary skill in the art to create the video data outside the computing device 11, and "transmit" the data to the computing device, because Furusawa does not teach that the computing device 11 has the ability to create the video , but does teach that the computing device can accept data from outside sources such as database 15.

Re claims 22, 24, 30 and 31, Furusawa teaches, for example, that one application may be playing a video clip, and a second application may be printing specifications for furniture.

Re claim 23, creating the bar code data is inherent in it's existence. Bar code data does not occur naturally.

Re claims 25 and 29, Applicant has admitted high rate LED scanners as commercially available prior art. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use any commercially available scanner as scanner 13a. Since high rate scanners such as the Welch Allyn Scanteam

3400 CCD were commercially available, it would have been obvious to use such a high rate scanner in the context of the teachings of Furusawa.

Re claims 31-35, Furusawa has given an example of retrieving data from an external database 15, and displaying it. Official notice is taken that e-mail and web pages were old and well known at the time the invention was made, and were species of processes wherein data was retrieved from an external database, in a format that was designed to be displayed. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the e-mail and web page species of retrieval of data from the external database because e-mail and web pages were well known and popular ways of communicating written data about all types of objects found in houses, such as furniture.

Response to Arguments

Examiner does not concede the point that the transmitting of bar code data to the computing device would not be obvious to a person of ordinary skill in the art, as restated above. Obviously, there is bar code data on computing device 11. How did it get there? Examiner's position is laid out above.

Applicant attempts to distinguish the invention by calling Furusawa's bar codes "identifiers" and Applicant's bar codes "data". Examiner respectfully disagrees with this line of argument. An "identifier" is a subset of data. The use of bar codes to exchange "data" is not lost on Furusawa. Bar codes contain data. Applicant's conclusion that Furusawa does not interchange data is therefore based on a faulty premise. Furusawa

clearly interchanges data. Bar code data is put on computer 11, to be read, decoded, and used.

With respect to claim 22, Applicant asserts that Furusawa does not teach the displaying of bar code data with one application, and the use of the data with another software application. Examiner disagrees with this assertion. First, Furusawa clearly teaches that the returned data can be "video data". If it is, it is displayed by display means 26. If not, it is displayed by data output means 27. Furusawa teaches "The data distribution means 25 forwards the received data to the video display means 26 if it is video data. If not, the data is forwarded to the data output means 27a. The video display means 26 displays the received video data as a video image on a reserved screen area of the display unit 12. The data output means 27a opens a window having a necessary format and displays the received character strings or numerical data in that window." See column 7, lines 24-32. Examiner finds that the video display means 26, which originally displays the bar code, and the second data output means 27a, constitute separate applications. The first application is a video data display application, and the second is a character string and/or numerical data display application.


With respect to the arguments presented in support of claim 26, Applicant again starts with the premise that Furusawa's bar codes do not contain data, but rather identifiers, so that no "data interchange" occurs. Again, Examiner disagrees with this line of reasoning, based on the false choice of whether Furusawa's bar codes are data or identifiers. The implication that "identifiers" are not "data" is not persuasive. Identifiers are always data.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Voice

Inquiries for the Examiner should be directed to Mark Tremblay at (571) 272-2408. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (571) 272-2398. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.


MARK TREMBLAY
PRIMARY EXAMINER
19 September 2004